



Citation of Prior Art Under 37 C.F.R. § 1.501  
U.S. Patent No. 5,995,947  
Attorney Docket No. 1090.8001-01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re* Patent of: )  
)  
Stephen K. FRASER *et al.* )  
)  
U.S. Patent No.: 5,995,947 )  
)  
Issue Date: November 30, 1999 )  
)  
Issued from Appl. No.: 08/928,559 )  
)  
Filing Date: September 12, 1997 )  
)  
)  
For: INTERACTIVE MORTGAGE AND )  
LOAN INFORMATION AND REAL- )  
TIME TRADING SYSTEM )

Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**CITATION OF PRIOR ART UNDER 35 U.S.C. § 301**  
**AND 37 C.F.R. § 1.501**

Pursuant to 35 U.S.C. § 301, 37 C.F.R. § 1.501(a), and M.P.E.P. § 2202, the undersigned herewith submits in the above-identified U.S. Patent No. 5,995,947 patent ("the '947 patent") a listing of prior art patents and printed publications, including copies thereof, which have a bearing on the patentability of at least one claim of the '947 patent, and provides below an explanation of the pertinency and applicability of the cited prior art to at least one claim of the '947 patent. In accordance with M.P.E.P. § 2204, this Citation of Prior Art and its attachments are being served on the Mountain View, California office of the Steven A. Swernofsky Law

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Group, the counsel and correspondence address of record for the '947 patent, as provided for in 37 C.F.R. § 1.33(c). A copy of the Certificate of Service is also attached.

In the interest of full disclosure, it is noted that the undersigned is the third party requester in the Request for *Ex Parte* Reexamination of the '947 patent, filed December 2, 2010, which has been assigned U.S. Reexamination Control No. 90/009,857. To the best of the undersigned's knowledge and belief, the Office has not yet issued an order to reexamine the '947 patent. Accordingly, under the provisions of M.P.E.P. § 2204, the undersigned submits that this Citation of Prior Art, along with its attachments, should be entered into the official file of the '947 patent, and such action is earnestly requested.

***Prior Art Having a Bearing on Patentability of the '947 Patent***

The undersigned believes that the following prior art has a bearing on the patentability of at least claims 1 and 12 of the '947 patent at least because the art was made of record and cited against claims in pending U.S. Patent Application No. 12/504,132 ("the '132 application"), which claims priority to and shares the same specification as U.S. Patent Application No. 08/928,559 ("the '559 application") that matured into the '947 patent.<sup>1</sup> By virtue of its relationship to the '559 application, the '132 application has the same or related inventions as the '947 patent. As set forth below, some of the claims that were rejected in that application are virtually identical to the claims in the '947 patent, including claims virtually identical to the two independent claims in the '947 patent. The prior art patents and printed publications cited herein and in the '132 application include:

U.S. Patent No. 5,794,207 to Walker et al., issued August 11, 1998 ("Walker")  
(attached as Exhibit A)

U.S. Patent No. 5,940,812 to Tengel et al., issued August 17, 1999 ("Tengel")  
(attached as Exhibit B)

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<sup>1</sup> Specifically, the '132 application is a divisional of U.S. Application No. 11/248,018, which is a continuation of U.S. Application No. 09/411,683, which is a continuation of the '559 application.

**Citation of Prior Art Under 37 C.F.R. § 1.501**

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Ord, B., "Canada's Electronic Mortgage Market," Mortgage Originator, July 1996, pp. 16-18 ("Ord")<sup>2</sup> (attached as Exhibit C)

U.S. Patent No. 5,870,721 to Norris, issued February 9, 1999 ("Norris") (attached as Exhibit D)

The undersigned also notes that Walker and Norris, as well as prior art U.S. Patent No. 5,966,699 to Zandi ("Zandi") which the undersigned relied on as a basis for a substantial new question of patentability in the Request for *Ex Parte* Reexamination of the '947 patent, also have been made of record and cited against claims in pending U.S. Patent Application No. 12/504,350 ("the '350 application"), which also claims priority to and shares the same specification as the '559 application.<sup>3</sup> More specifically, Zandi, Walker and Norris have been relied upon in a final rejection of various claims presented in the '350 application in the Final Office Action dated December 22, 2010 in the '350 application (a copy of which is attached as Exhibit F). For this additional reason, the undersigned submits that Walker, Norris, and Zandi are believed to have a bearing on the patentability of one or more claims of the '947 patent.

The undersigned further notes that Tengel and Norris, also have been made of record and cited against claims in pending U.S. Patent Application No. 11/248,018 ("the '018 application"), which also claims priority to and shares the same specification as the '559 application.<sup>4</sup> More specifically, Tengel and Norris have been relied upon in a final rejection of various claims presented in the '018 application in the Final Office Action dated October 26, 2010 in that application (a copy of which is attached as Exhibit G). For this additional reason, the undersigned submits that Tengel and Norris are believed to have a bearing on the patentability of one or more claims of the '947 patent.

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<sup>2</sup> Disclosed by the Applicant of the '132 application on July 22, 2009.

<sup>3</sup> Specifically, the '350 application is a divisional of U.S. Application No. 11/248,018, which is a continuation of U.S. Application No. 09/411,683, which is a continuation of the '559 application.

<sup>4</sup> Specifically, the '018 application is a continuation of U.S. Application No. 09/411,683, which is a continuation of the '559 application.

***Pertinence and Applicability of Prior Art Bearing on Patentability of the '947 Patent***

At least for the following reasons, the undersigned considers Walker, Tengel, Ord, and Norris pertinent and applicable to the '947 patent.

Claim 1 of the '947 patent recites:

1. A method for processing loan applications, said method including the steps of maintaining a database of pending loan applications and their statuses at a database server, wherein each party to a loan can search and modify that database consistent with their role in the transaction by requests to said server from a client device identified with their role.

In the '947 patent, the term "loan application" is defined as including a "loan profile." *See* the '947 patent (a copy of which is attached as Exhibit H) at col. 3, lines 47-48. Therefore, the term loan profile appears to be more narrow than the term loan application.

Claim 56 of the '132 application, which was finally rejected in a Final Office Action dated December 22, 2010 ("the '132 Final Office Action," a copy of which is attached as Exhibit E), recites:

56. A method for processing loan profiles, said method including the steps of maintaining a database of loan profiles and their status at a database server, wherein borrowers and lenders can each search and modify the database consistent with their role in a loan transaction by requests to said server from a client device.

In the '132 Final Office Action, claim 56 above was rejected as unpatentable under 35 U.S.C. § 103 over Walker in view of Tengel in view of Ord. *See* Ex. E at pages 7 and 8.

Walker discloses maintaining a database system, specifically Data Storage Device 250 including Conditional Purchase Offer (CPO) database 265, which includes CPOs 100 (interpreted as loan applications) and their status. *See* Ex. A at col. 12, lines 54-67 and col. 17, lines 47-64. The database system may be used for mortgage-based CPOs. *Id.* at col. 16, line 7. Thus, Walker discloses "maintaining a database of pending loan applications and their statuses at a database server," as recited in claim 1 of the '947 patent. At least for this reason, the undersigned considers Walker pertinent and applicable to claim 1 of the '947 patent.

Walker further discloses a seller (interpreted as lender) searching available CPO's 100 for which the seller may bid. *See* Ex. A at col. 18, line 56 to col. 19, line 1. The seller may request additional data regarding a particular CPO 100 and may bid on a selected CPO 100. *See id.* at col. 19, lines 3-28. Thus, Walker discloses "wherein [the lender] party to a loan can search and modify that database consistent with [its] role in the transaction by requests to said server from a client device identified with [its] role", as recited in claim 1 of the '947 patent. For this additional reason, the undersigned considers Walker pertinent and applicable to claim 1 of the '947 patent.

Tengel discloses that a borrower may modify a loan application database by entering loan application information and may later retrieve the application to update/complete a partially completed application. *See* Ex. B at col. 8, lines 59-65. Thus, Tengal discloses "wherein [the borrower] party to a loan can search and modify that database consistent with [its] role in the transaction by requests to said server from a client device identified with [its] role," as recited in claim 1 of the '947 patent. At least for this reason, the undersigned considers Tengal pertinent and applicable to claim 1 of the '947 patent.

Ord discloses lenders bidding on mortgage loans available in a database system. *See* Ex. C at page 16, col. 2, third full paragraph ("[L]enders download this information (applicant's application from the system) [and] issue commitment letters via the system to the mortgage originator. The originator then sits down with the mortgagor, presents the bids on the application and the mortgagor chooses one."). Borrowers in Ord can search the database system for lender attributes. *See id.* at page 17, col. 2, second full paragraph ("Current rate information is available online, through the CANEX system, and also through the lender's own system. This information is automatically downloaded to the mortgage originator's laptop computer whenever he updates his system."). Thus, Ord discloses that "each party to a loan can search ... that database consistent with their role in the transaction by requests to said server from a client device identified with their role," as recited in claim 1 of the '947 patent. At least for this reason, the undersigned considers Ord pertinent and applicable to claim 1 of the '947 patent.

In the '132 Final Office Action, the USPTO specifically found in rejecting claim 56 of the '132 application that:

- a. "Walker, in col. 12, lines 54-67 discloses a database of the system, and in col. 17, lines 47-64 discloses the database includes a borrower conditions and the status of the borrower offer. Walker in col. 16, line 7 also discloses that the system may be used with mortgages. Furthermore, Walker, in col. 18, line 56 - col. 19, line 12, discloses a seller searching for buyer offers, and in col. 19, line 61 - col. 20, line 4 discloses modifying the database by a seller."
- b. "Walker, in col. 17, lines 59-61 suggests that a borrower has control over the particular loan profile, but does not specifically disclose that they may modify the database. However, Tengel, in col. 8, lines 59-65, discloses that a borrower can modify the database of their loan profile. It would have been obvious to combine the method of maintaining a loan database with the technique of allowing modification by the borrower in case 'If the potential borrower needs to come back to the loan application' (Tengel col. 8, lines 60-62)."
- c. "Walker, in col. 22, lines 40-51 discloses that a seller may issue a counteroffer, but does not specifically disclose that the borrower can search the counteroffers. However, Ord, in p. 16, col. 2, ¶ 3, discloses lenders bidding on mortgage loans, and in in [sic] p. 17, col. 2, ¶ 1, discloses that borrowers can search the lender attributes. It would have been obvious to combine the method of providing a loan database with the technique of allowing borrowers to search the database so that the lender can 'compare lenders'."

Ex. E at pages 7 and 8.

Accordingly, for at least the above reasons, the undersigned submits that as to *at least* claim 1 of the '947 patent, the differences between the method of claim 1 and the method taught by Walker are found in the teachings of Tengel and Ord. It would have been obvious to one of ordinary skill in the art at the time of the invention of the '947 patent to modify the method taught by Walker with the features taught by Tengel and Ord, respectively, to (1) permit a borrower to have later access to the loan application to provide updated information; (2) permit borrowers to a loan to compare lenders.

The '132 Final Office Action further rejects claims 57, 60, and 61 presented in the '132 application as unpatentable under 35 U.S.C. § 103 under Walker, in view of Tengel, Ord, and

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Norris. *See* Ex. E at pages 11-13. These claims substantially correspond to claims 2, 19, and 21 in the '947 patent. A side by side comparison of these claims is as follows:

| Finally Rejected Claim in the '132 Application   | Claim in the '947 Patent  |
|--|---|
| 57. A method as in claim 56, wherein said loan profiles comprise loan profiles associated with requests for a mortgage loan.   | 2. A method as in claim 1, wherein said loan applications comprise home mortgage loan applications.   |
| 60. A system for processing loan profiles, said system including: a database of loan profiles, said database including status information regarding said loan profiles; and a transaction server, said transaction server being responsive in real time to requests from parties to a loan transaction, said requests including requests for searching and request for modifying said database consistent with the roles of said parties in the transaction. | 19. A system for processing loan applications, said system including a database of pending loan applications, said database including status information regarding said pending loan applications; a transaction server, said transaction server being responsive in real time to requests from parties to said pending loan applications, said request including requests for searching and requests for modifying said database consistent with roles for said parties. |
| 61. A system as in claim 60, wherein said loan profiles comprise loan profiles associated with requests for a mortgage loan.   | 21. A system as in claim 19, wherein said pending loan applications comprise home mortgage loan applications.   |

Thus, for the same reasons set forth in the '132 Final Office Action, the undersigned respectfully submits that claims 2, 19, and 21 are rendered obvious by the combination of Walker, Tengel and Ord. *See* Ex. E at pages 8 and 9.

Further, claim 12 of the '947 patent, including claims 1 and 11 from which it depends, recites as follows:

[1.] A method for processing loan applications, said method including the steps of maintaining a database of pending loan applications and their statuses at a database server, wherein each party to a loan can search and modify that database consistent with their role in the transaction by requests to said server from a client device identified with their role[,]

[11.] wherein said database includes computed values which might be of interest to lenders[, and]

[12.] wherein **said computed values include a credit score.**

Ex. H, col. 14, lines 66 – col. 15, lines 5 and 37-40 (emphasis added).

Norris discloses a method for “closed loop, automatic processing a loan, including completion of the application, ... [obtaining] the information needed to process the loan [and] [determining] whether to approve the loan.” Ex. D at Abstract. In Norris, “[t]he loan approval determination is made using a neural network with input obtained in part from the applicant and in part from databases accessed by the computer, such as a credit bureau, to obtain a credit report.” *Id.* Thus, Norris discloses a database which “includes computed values which might be of interest to lenders[, and] **said computed values include a credit score,**” as recited in claim 12 of the '947 patent. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Walker, in view of Tengel and Ord, with the teachings of Norris to include information regarding credit scores in a database for automated loan application processing, since such information is particularly valuable in the loan application process.



**Citation of Prior Art Under 37 C.F.R. § 1.501**

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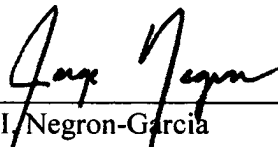
***Conclusion***

In view of the relationship between the '947 patent and the '132 application, including, for example, the similar inventions contained therein, the '132 Final Office Action (Ex. E), and the substantive reasons set forth above, the undersigned submits that Walker, Tengel, Ord, and Norris are pertinent and applicable to at least claims 1, 2, 12, 19, and 21 of the '947 patent. Further, in light of those prior art references being cited against claims in the '132 application, the '350 application, and the '018 application, which share the same specification and claim priority to the '559 application, the references have a bearing on the patentability of at least claims 1, 2, 12, 19 and 21 of the '947 patent.

In view of the foregoing remarks, the undersigned respectfully requests that this Citation of Prior Art be entered in the official file of the '947 patent.

The undersigned believes no fees are due with respect to this filing. However, should the Office determine that fees are necessary, the Office is hereby authorized to charge Deposit Account No. 504126 accordingly

Dated: January 28, 2011

By:   
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re* Patent of: )  
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Stephen K. FRASER *et al.* )  
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U.S. Patent No.: 5,995,947 )  
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For: INTERACTIVE MORTGAGE AND )  
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TIME TRADING SYSTEM )

Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**CERTIFICATE OF SERVICE**

Pursuant to M.P.E.P. § 2204 and 37 C.F.R. § 1.33(c), the undersigned attorney certifies that copies of the attached Citation of Prior Art Under 35 U.S.C. § 301 and 37 C.F.R. § 1.501, with Exhibits A-H, and IDS Form PTO/SB/42 listing were filed in the U.S. Patent and Trademark Office (PTO) on January 28, 2011, and were served on the patent owner and its counsel by certified first class mail on January 28, 2011 at the following correspondence address (as listed in the electronic file corresponding to U.S. Patent No. 5,995,947 on the PTO Public PAIR website):

**Submission of Prior Art Under 37 C.F.R. § 1.501**

U.S. Patent No. 5,995,947

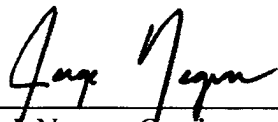
Attorney Docket No. 1090.8001-01

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Docket Number (Optional)  
1090.8001-01Patent Number  
5,995,947

**37 CFR 1.501**  
**INFORMATION DISCLOSURE CITATION**  
**IN A PATENT**  
 (Sheet 1 of 1)

Applicant

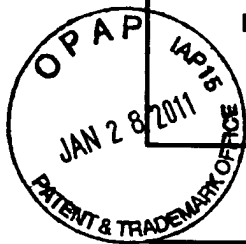
Stephen K. FRASER et al.

Issue Date

November 30, 1999

Art Unit

2767

**U.S. PATENT DOCUMENTS**

| Examiner<br>Initials | Document Number | Date       | Name          | Class | Subclass | Filing Date if<br>Appropriate |
|----------------------|-----------------|------------|---------------|-------|----------|-------------------------------|
|                      | US-5,794,207    | 08-11-1998 | Walker et al. | 705   | 23       | 09-04-1996                    |
|                      | US-5,940,812    | 08-17-1999 | Tengel et al. | 705   | 38       | 08-19-1997                    |
|                      | US-5,870,721    | 02-09-1999 | Norris        | 705   | 38       | 10-15-1996                    |
|                      | US-             |            |               |       |          |                               |
|                      | US-             |            |               |       |          |                               |
|                      | US-             |            |               |       |          |                               |

**FOREIGN PATENT DOCUMENTS**

| Examiner<br>Initials | Document Number | Date | Country | Class | Subclass | Translation |    |
|----------------------|-----------------|------|---------|-------|----------|-------------|----|
|                      |                 |      |         |       |          | Yes         | No |
|                      |                 |      |         |       |          |             |    |
|                      |                 |      |         |       |          |             |    |
|                      |                 |      |         |       |          |             |    |
|                      |                 |      |         |       |          |             |    |

**OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**

| Examiner<br>Initials | Date    |   |
|----------------------|---------|---|
|                      | 08-1996 | Bob Ord, "Canada's Electronic Mortgage Market," <u>Mortgage Originator</u> , July 1996, pp. 16-18 |
|                      |         |   |
|                      |         |   |
|                      |         |   |
|                      |         |   |

|                       |  |                    |  |
|-----------------------|--|--------------------|--|
| Examiner<br>Signature |  | Date<br>Considered |  |
|-----------------------|--|--------------------|--|



# EXHIBIT C

y Bob Ord

It's remarkable what can be achieved when lenders and others in the mortgage industry embrace technology and work together to enhance the loan process. A group of Canadian lenders did just that when they supported the Mortgage Market system that FirstLine Trust had developed.

The Mortgage Market system revolutionized the mortgage industry by pooling Canada's largest single group of residential capital sources and creating a bid market system. These lenders now competitively "blind bid" for a customer's mortgage through an electronic process.

In the mid-eighties our group developed a software program for professional Realtors. Called POWER AGENT, it was conceived primarily to prepare real estate offers. However, as the Canadian real estate market developed through the late eighties, this software had very limited marketability in an environment which wasn't capitalizing on computerization. Yet, many of the components in the initial software package design became early screens on a dream product, the Mortgage Market.

#### The Mortgage Market

The central concept of the Mortgage-Market software package was to create a pool of lenders that bid on a mortgagor's application. Essentially, the mortgagor would win because the competitive system would act like an auction, with every lender producing their best offer.

The Mortgage Market was launched in late 1989, consisting of a dozen of Canada's innovative lenders; an eclectic group of major chartered banks, schedule-B banks, B-lenders, some secondary lenders, and a couple of large trust companies. To rapidly deploy the technology on the front-end, we started a mortgage originator franchise system, which eventually spread from coast to coast.

#### The System

The decision was made to utilize the Macintosh operating system because of its point and click technology and the minimal amount of training which was required for operators. In the early stages, basic functionality was key.

An applicant either visits a mortgage originator's office or the applicant's information is culled and keyed in later by the originator. Full details on the applicant's job and residential history, loan amounts, assets/liabilities and other information, as well as the credit bureau report is gathered electronically. All of this information is then sent via EDI to a central point.

The lenders' download this information on an hourly basis during the day, and 24 hours later issue commitment letters via the system to the mortgage originator. The originator then sits down with the mortgagor, presents the bids on the application and the mortgagor chooses one.

Over the last several years, this system has evolved dramatically. For example, the application system now runs on ROVER technology. The originator can take an application in a borrower's home, pull a credit bureau report while sitting at the kitchen table, key

in the full application, and scan in documents (i.e. copies of offers, listing, pay stubs) which are automatically attached to the file. The originator can even order an appraisal electronically.

Then, with a push of a button, the originator can send this information to a main server. The server deploys it hourly to all participating lenders. The lenders have four hours to respond to the application; all attachments are in a single file. The credit bureau provides an electronic version in readable form, as well as a machine readable version, in case a lender wishes to download it to his own underwriting

# Canada's Electronic Mortgage Market



system. All documents are available to the underwriter at the time the loan is being reviewed.

**Underwriter Advantage**

From the underwriter's perspective, the program provides an incredible productivity tool. In the Canadian marketplace, a highly skilled underwriter can process eight to 10 "normal" loans per day. With the Mortgage Market, all key data fields are presented on a summary screen. This information includes the mortgagor's name, address, employment history, social insurance number, critical ratios, gross debt service ratios, loan to value, loan amount calculations and payment calculations.

On the right side of the page is the credit bureau, which can be scrolled through by the underwriter. He can quickly review the important data, review the credit bureau and decide whether to proceed. If the process continues, he will go through the complete applicant file; job, assets, liabilities and property. Using this system, an efficient underwriter can probably underwrite a straightforward transaction within five to eight minutes.

Included in the underwriting side of this system is the ability to issue a commitment letter electronically. All the pertinent information downloads from the application form to a standard-form commitment letter. The lender already has created its own specialized clause library and can reference through this, checking off clauses to include in the "conditions" section of the letter. All blanks requiring information are automatically highlighted when the commitment letter is created. Once all the blanks are completed, it takes the touch of a button to electronically send the commitment letter to the originator. At the end of a four-hour cycle, all lenders' commitment letters are downloaded together by the originator, and he is ready for presentation to the client.

#### Other Features

One of the major features for the broker's or lender's productivity is the automatic creation of all disclosure documents. These forms (i.e. amortization, disclosure and truth and lending documents), which are required prior to execution of any mortgage documentation, are automatically generated and dropped into the application file. The system generates all of these, as well as some interesting side bar revenue producing tools, which have been added to the program.

For example, an instant-issue creditors group life policy has been built for the system. The system automatically transfers information from the application to prepare an insurance policy, with premiums already calculated. The policy can be printed on a small laser jet printer and the mortgagor can sign right on the spot. The mortgagor will then be bound at the time of issuance or acceptance of a loan commitment. The software is an extremely competitive product, and generates almost immediate cash flow to the originator.

The system contains full amortization screens, amortization and payment frequency-comparison screens, and complete lender clause libraries. The lender clause libraries are

helpful because they contain information on all of the major lenders in the market area. The originator can access the lender's guidelines, which are automatically updated in the system. Should the originator wish to compare lenders, he can easily scroll or flip from lender to lender to find out their prepayment privileges options, payment frequency privileges, and all the features of their own specific mortgage products.

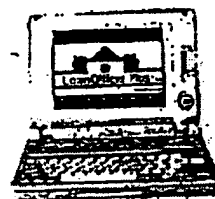
In addition, if a mortgagor requests information on a specific lender, the originator can play video on the laptop. In the video, the lender profiles their company and provides other information.

Current rate information is available, online, through the CANEX system, and also through the lender's own system. This information is automatically downloaded to the mortgage originator's laptop whenever he updates his system.

#### Expanded Application

As the Mortgage Market became successful, the distribution company (Broker Systems Inc.) began providing the same software on a non-market basis to Canada's independent mortgage brokerage community. During the last year, nearly all of the major brokerage houses in Canada (smaller market than U.S.) have begun using this Macintosh technology.

The difference between the Mortgage Market system and this expanded use system, which we call Lender Specific Sys-



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San Francisco Bay Area  
(21 branches)

First PGR Financial  
Lake Tahoe, CA 1995

St. Francis Mortgage  
San Francisco, CA 1994

## START GROWING WITH THE NET BRANCH CONCEPT FROM PACIFIC GUARANTEE MORTGAGE

We're looking for aggressive Mortgage Broker companies and Loan Originators who want to grow in a Net Branch environment oriented toward marketing and technological expansion. Establish your business offices under the Pacific Guarantee Mortgage name (or even another name, as a DBA).

### 10 WAYS YOU BENEFIT

1. Association with one of the largest mortgage brokerage firms in California. (We are not a mortgage banker).
2. Access to over 150 lenders including FHA/VA, Jumbo loans, and A through D products.
3. Participation in lender incentives and service release premiums.
4. Sales and marketing support.

5. In-house underwriting.
6. Assistance in establishing Controlled Business Arrangements with real estate companies, builders and small banks.
7. State of the art technology including loan processing and loan agent support software, CLO and Teleconferencing systems.
8. Trust account, payroll and commission accounting and reporting.
9. Liability and E & O insurance.
10. You choose your own locale, loan agents and loan programs. GROW YOUR ORGANIZATION TO BECOME A PGM REGIONAL SUPPORT CENTER.

Now we ask you, is there a better place for you to grow your business than in the shade of our family tree?



## PACIFIC GUARANTEE MORTGAGE

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tem, is that under the latter, the originator has a menu of lenders from which to choose, but he may only send the application to one lender at a time, and must receive a response within four hours or he is unable to transmit it to a second lender. This time-delay feature was built into the system to prohibit brokers from shopping loans; eliminating the situation of several lenders working on the same loan, without the others knowing about it.

With the LSS, if the underwriter was to access archived applications, she would get a list of those applications that she had underwritten or processed that day, and those that were already off the current screen because they had missed the four-hour window.

One result of our efforts to introduce the Lender Specific System has been a major degree of standardization to Canada's mortgage origination industry. Most large brokerage houses are now utilizing the system as an origination tool lenders are using it as a productivity tool.

The major chartered banks are beginning to utilize this system for their appraisals and are taking the stance through appraisal centralization, that they will only accept appraisals electronically for storage and review. The appraisal system is unique because the screens which are utilized in the process are all standard. The appraisal is ordered electronically, with the order received in an appraiser's office on his computer. While the appraiser is in the field, all the appraisal information is keyed in on a laptop and the pictures of the property, taken with a digital camera, are also downloaded into the system.

The development of the Mortgage Market system has resulted in a win-win situation. The customer wins by getting the best offer. The originator wins by improving sales and increasing customer service. And the lenders win by improving their underwriting capabilities.



**BOB ORD**  
is vice president/mortgages  
at FirstLine Trust, Toronto,  
Canada.





# EXHIBIT E



# UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|--|-------------|----------------------|----------------------------|------------------------|
| 12/504,132   | 07/16/2009  | Stephen K. Fraser    | 108.1001.07                | 9536                   |
| 22883 7590 12/22/2010<br>SWERNOFSKY LAW GROUP PC<br>P.O. Box 390711<br>MOUNTAIN VIEW, CA 94039 |             |                      | EXAMINER<br>FLYNN, KEVIN H |                        |
|  |             |                      | ART UNIT<br>3628           | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>12/22/2010    | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 12/504,132             | FRASER ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | KEVIN FLYNN            | 3628                |  |

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 56-69,91-93 and 114-139 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56-69,91-93 and 114-139 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6 Oct 2010</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

**Status of Claims**

1. This action is in reply to the amendment filed 12 October 2010.
2. Claims 59, 63, 66, 69, 91, 93 have been amended.
3. Claims 114-139 have been added.
4. Claims 56-69, 91-93, 114-139 are currently pending and have been examined.

***Response to Arguments***

5. Regarding the previous objection to the claim listing, Applicant has successfully included a full claim listing with correct claim markings. Examiner thanks Applicant for attention to this matter, and future amendments will not require the full text of cancelled claims.
6. Regarding the previous 35 USC § 101 rejection of claims 91-93, Applicant has successfully included a particular device in the system claims, and, accordingly, the rejection is rescinded.
7. Regarding the previous 35 USC § 112, 1<sup>st</sup> paragraph rejection of claim 93, Applicant has amended the claim, rendering the particular rejection moot. However, newly added claim 115 recites substantially the same limitation, and, accordingly, is rejected under 35 USC § 112, 1<sup>st</sup> paragraph as new matter. Claim 115 recites "wherein said search requests are initiated **only** by said lender" (emphasis added). Negative limitations such as those above require support in the specification, however, the specification is devoid of any mention of instances in which only the lender initiates search requests (see e.g. spec p. 25, lines 4-5; p. 36, lines 19-22 showing the system supports borrower searches). Contrast with newly added claim 114, which recites "wherein said search requests include at least some not initiated by the borrower", which is supported by the specification, which discloses that search requests may be performed by a lender, ie "not initiated by a borrow".

8. Applicant further argues that information that was known in the general state of the art at the time of the invention should be considered in regard to adding information to claims that was not present in the original specification (Applicant's arguments, pp. 41-43). However, Examiner notes that this is not the proper test regarding adding information to the claims that was not present in the original specification. "To comply with the written description requirement of 35 U.S.C. 112, para. 1, or to be entitled to an earlier priority date or filing date under 35 U.S.C. 119, 120, or 365(c), each claim limitation must be *expressly, implicitly, or inherently* supported in the originally filed disclosure. When an explicit limitation in a claim 'is not present in the written description whose benefit is sought it must be shown that a person of ordinary skill would have understood, at the time the patent application was filed, that the description requires that limitation.'" MPEP § 2163(b) (emphasis added).
9. For instance, the specification, on p. 36, lines 6-7 disclose "after verification of the prospective loan information or other formalities, the lender completes the loan". This passage gives support for including verification of a prospective loan after submission of a loan package, but does not give support for particular types of verifications that are supposedly known in the art.
10. Examiner also notes that mere rephrasing (MPEP § 2163.07(I)) or correction of obvious errors (MPEP § 2163.07(II)) are adequately supported by the specification, however, as shown below, many of the limitations included within the new claim limitations do not fall under either of these categories.
11. Furthermore, if Applicant wishes to avoid additional 35 USC § 112, 1st paragraph rejections in subsequent amendments, Examiner respectfully requests pointing to support for each amendment, especially when the amendment uses language that is not immediately consistent with the specification's wording. See MPEP § 714.02 and § 2163.06 ("Applicant should specifically point out the support for any amendments made to the disclosure").
12. Regarding the previous 35 USC § 112, 1<sup>st</sup> paragraph rejection of claims 59, 63, 66, 69, Applicant has successfully amended the claims consistently with the specification, and, accordingly, the rejection is rescinded. Examiner agrees that the specification, on p. 36, lines 4-7 includes

conditions after the offer has been extended before grant of the offer. However, Examiner does not agree with Applicant's arguments that a "prequalified loan is one of (many) types of conditional loans" (Applicant's arguments, p. 42), as per the current specification. In particular, Examiner notes that the specification discloses that prequalification may be performed using statistical information about loan applicant's (original claim 18), and in pp. 36, line 13 – pp. 37, line 13 discloses prequalifying a borrower in order to "inform the prospective borrower about whether or not it is feasible to obtain competitive rates in those contemplated ranges" (p. 37, lines 11-13), but there is no nexus within the specification that discloses that an offer which originated as a bid may be a conditional offer. The claims depend from claims that state "at least one bid on a loan profile from one of a plurality of potential lenders" (e.g. claim 58) and "wherein said bid includes an offer" (e.g. claim 59), and, accordingly, the specification does not support that a bid may be used as a prequalification offer.

13. Applicant's arguments filed 12 October 2010 regarding the prior art rejection of the claims have been fully considered but they are not persuasive. In particular, Applicant argues that Tengel and Norris are not combinable, because Tengel cannot provide a loan offer (Applicant's Arguments, p. 49. However, as shown in the rejection, Norris combined with Tengel is not the basis of the rejection. In particular, Ord discloses providing a loan offer, and Norris is used to show an offer can include conditions following acceptance (see e.g. col. 7, lines 17-23).
14. In addition, see updated rejection below.

***Claim Rejections - 35 USC § 112***

15. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
16. Claim 115 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the

specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 115 recites "wherein the search requests are **only** initiated by the lender, and wherein both the borrower and the lender can initiate modify requests" (emphasis added). However, the specification does not disclose any embodiment in which the search requests are only performed by the lender (see e.g. spec p. 25, lines 4-5; p. 36, lines 19-22 showing borrower searches).

17. Claims 116, 122, 128, 134 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims include the limitation "wherein said actions include at least one or more actions initiated by a seller", but the specification only discloses that a seller's asking price may be included within the system, but not that the seller performs any actions which are used as conditional for the loan offer.
18. Claims 120, 126, 133, 138 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims include the limitation "wherein said offer includes a prequalification offer", but the specification only discloses that a broker may prequalify a borrower, not that any bid offer includes a prequalification offer. The claims depend from claims that state "at least one bid on a loan profile from one of a plurality of potential lenders" (e.g. claim 58) and "wherein said bid includes an offer" (e.g. claim 59), and, accordingly, the specification does not support that a bid may be used as prequalification.
19. Claims 121, 127, 134, 139 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims include the limitation "wherein said offer is conditional upon an authorization limit associated with said lender", but the specification is devoid of any mention of an authorization limit, much less being associated with a bid offer.

***Claim Rejections - 35 USC § 103***

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

22. Claims 56-58, 60-62, 64-65, 67-68, 91-93, 114-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 5,794,207) in view of Tengel et al. (US 5,940,812) in view of Ord. "Canada's Electronic Mortgage Market." Mortgage Originator, July 1996, pp. 16-18. (Applicant's IDS, filed 22 July 2009, Non-Patent Literature Documents cite no. 3).

**Claim 56:**

Regarding the limitation:



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- maintaining a database of loan profiles and their status at a database server, wherein borrowers and lenders can each search and modify the database consistent with their role in a loan transaction by requests to said server from a client device.

Walker, in col. 12, lines 54-67 discloses a database of the system, and in col. 17, lines 47-64 discloses the database includes a borrower conditions and the status of the borrower offer. Walker in col. 16, line 7 also discloses that the system may be used with mortgages. Furthermore, Walker, in col. 18, line 56 - col. 19, line 12, discloses a seller searching for buyer offers, and in col. 19, line 61 – col. 20, line 4 discloses modifying the database by a seller.

Walker, in col. 17, lines 59-61 suggests that a borrower has control over the particular loan profile, but does not specifically disclose that the may modify the database. However, Tengel, in col. 8, lines 59-65, discloses that a borrower can modify the database of their loan profile. It would have been obvious to combine the method of maintaining a loan database with the technique of allowing modification by the borrower in case “If the potential borrower needs to come back to the loan application” (Tengel col. 8, lines 60-62).

Walker, in col. 22, lines 40-51 discloses that a seller may issue a counteroffer, but does not specifically disclose that the borrower can search the counteroffers. However, Ord, in p. 16, col. 2, ¶ 3, discloses lenders bidding on mortgage loans, and in in p. 17, col. 2, ¶ 1, discloses that borrowers can search the lender attributes. It would have been obvious to combine the method of providing a loan database with the technique of allowing borrowers to search the database so that the lender can “compare lenders”.

**Claim 57:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 56. In addition, Tengel also discloses the following limitation(s):

- wherein said loan profiles comprise loan profiles associated with requests for a mortgage loan (Tengel col. 5, line 24).

**Claim 58:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 56. Regarding the limitation:

- wherein said database can be modified by entering at least one bid on a loan profile from one of a plurality of potential lenders.

Walker, in col. 19, line 61 – col. 20, line 4 discloses modifying the database by a seller, and in col. 22, lines 40-51 discloses that a seller may issue a counteroffer, but does not specifically disclose that the borrower enters a bid. However, Ord, in p. 16, col. 2, ¶ 3, discloses lenders bidding on mortgage loans. It would have been obvious to combine the method of providing a loan database with the technique of allowing borrowers to search the database so that the lender can “compare lenders” (Ord).

**Claim 60:**

See above rejection of claim 56.

**Claim 61:**

See above rejection of claims 60 and 57.

**Claim 62:**

See above rejection of claims 60 and 58.

**Claim 64:**

See above rejection of claims 56 and 58.

**Claim 65:**

See above rejection of claims 64 and 58.

**Claim 67:**

See above rejection of claims 56 and 58.

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**Claim 68:**

See above rejection of claims 67 and 58.

**Claim 91:**

See above rejection of claims 56. In addition, Tengel, in col. 8, lines 37-58 discloses a loan request form.

**Claim 92:**

See above rejection of claims 91 and 58.

**Claim 93:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 91. Regarding the limitation:

- wherein the search requests are initiated by the lender, and wherein both the borrower and the lender can initiate modify requests.

Walker, in col. 18, line 56 - col. 19, line 12, discloses a seller searching for buyer offers, and in col. 19, line 61 – col. 20, line 4 discloses modifying the database by a seller. Walker, in col. 17, lines 59-61 suggests that a borrower has control over the particular loan profile, but does not specifically disclose that the may modify the database. However, Tengel, in col. 8, lines 59-65, discloses that a borrower can modify the database of their loan profile.

**Claim 114:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 93. Walker discloses the limitation:

- wherein said search requests include at least some not initiated by said borrower (Walker, in col. 18, line 56 - col. 19, line 12, disclosing a seller searching for buyer offers).

**Claim 115:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 93. Walker discloses the limitation:

- wherein said search requests are only initiated by said lender (Walker, in col. 18, line 56 - col. 19, line 12, discloses a seller searching for buyer offers).

It would have been obvious to only include the searchability of the lender, because omission of an element and its function is obvious if the function of the element is not desired (See MPEP 2144.04 (II)(A)).

**23.** Claims 59, 63, 66, 69, 116-139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al./Tengel et al./Ord. in view of Norris (US 5,870,721).

**Claims 59, 63, 66, 69:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 58, 62, 64, 67. Regarding the limitation:

- wherein said bid includes an offer to grant a loan request associated with the loan profile, conditional upon one or more actions after said offer is extended.

Ord, in p. 16, col. 2, ¶ 3, discloses lenders bidding on mortgage loans, but does not specifically disclose the bid offers are conditional offers. However, Norris, in col. 7, lines 17-23 discloses offers can include verification conditions after the offer is extended. It would have been obvious to one of ordinary skill in the art at the time of the invention to include verification conditions after an offer is extended in order "to prevent fraud" (Norris col. 7, line 18).

**Claims 116, 122, 128, 134:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 59, 63, 66, 69. In addition, Norris discloses the following limitations:

- wherein said actions include at least one or more actions initiated by a seller (Norris col. 7, lines 17-23, Examiner interprets a lender as a seller of a mortgage).

**Claims 117, 123, 129, 135:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 59, 63, 66, 69. In addition, Norris discloses the following limitations:

- wherein said actions include at least one or more actions initiated by said lender (Norris col. 7, lines 17-23).

**Claims 118, 124, 130, 136:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 59, 63, 66, 69. In addition, Norris discloses the following limitations:

- wherein said actions include at least one or more actions not performed by said borrower (Norris col. 7, lines 17-23).

**Claims 119, 125, 131, 137:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 59, 63, 66, 69. In addition, Norris discloses the following limitations:

- wherein said actions include information transfer (Norris col. 7, lines 17-23).

**Claims 120, 126, 132, 138:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 59, 63, 66, 69. In addition, Tengal discloses the following limitations:

- wherein said offer includes a loan prequalification offer (Tengel col. 5, lines 20-28 showing loan acceptance criteria).

**Claims 121, 127, 133, 139:**

Walker/Tengel/Ord, as shown above, discloses the limitations of claim 59, 63, 66, 69. In addition, Tengal discloses the following limitations:

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- wherein said offer is conditional upon an authorization limit associated with said lender (Tengel col. 5, lines 45-51 showing an authorization limit).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kevin H. Flynn** whose telephone number is **571.270.3108**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **John W. Hayes** can be reached at **571.272.6708**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

**Commissioner of Patents**

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**Alexandria, VA 22313**

or faxed to **571-273-8300**.

Application/Control Number: 12/504,132  
Art Unit: 3628

Page 14

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/Kevin H. Flynn/  
Examiner, Art Unit 3628  
15 December 2010

/JOHN W HAYES/  
Supervisory Patent Examiner, Art Unit 3628



|   |                        |             |            |
|---|------------------------|-------------|------------|
| <b>INFORMATION DISCLOSURE<br/>STATEMENT BY APPLICANT</b><br>( Not for submission under 37 CFR 1.99) | Application Number     |             | 12504132   |
|   | Filing Date            |             | 2009-07-16 |
|   | First Named Inventor   | Fraser      |            |
|   | Art Unit               | 3628        |            |
|   | Examiner Name          | Flynn, K.   |            |
|   | Attorney Docket Number | 108.1001.07 |            |

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**  
( Not for submission under 37 CFR 1.99)

|                        |             |
|------------------------|-------------|
| Application Number     | 12504132    |
| Filing Date            | 2009-07-16  |
| First Named Inventor   | Fraser      |
| Art Unit               | 3628        |
| Examiner Name          | Flynn, K.   |
| Attorney Docket Number | 108.1001.07 |

|        |   |   |                          |
|--------|---|---|--------------------------|
| /K.F./ | 1 | UNITED STATES DISTRICT COURT. "IMX, Inc. v. Lendingtree, LLC Memorandum Order." Civ. No. 03-1067-SLR, December 14, 2005, pp. 1-4.                                     | <input type="checkbox"/> |
| /K.F./ | 2 | UNITED STATES DISTRICT COURT. "IMX, Inc. v. E-Loan, Inc." 09-20965-CIV, April 21, 2010, pp. 1-9.  | <input type="checkbox"/> |
| /K.F./ | 3 | UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA. "Order on Claim Construction." Case Number: 09-20965-CIV-Martinez-Brown, April 20, 2010, pp. 1-18. | <input type="checkbox"/> |

If you wish to add additional non-patent literature document citation information please click the Add button

**EXAMINER SIGNATURE**

|                    |               |                 |            |
|--------------------|---------------|-----------------|------------|
| Examiner Signature | /Kevin Flynn/ | Date Considered | 12/14/2010 |
|--------------------|---------------|-----------------|------------|

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> See Kind Codes of USPTO Patent Documents at [www.USPTO.GOV](http://www.USPTO.GOV) or MPEP 901.04. <sup>2</sup> Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>3</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>4</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>5</sup> Applicant is to place a check mark here if English language translation is attached.



# EXHIBIT F



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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|--|-------------|----------------------|----------------------------|------------------------|
| 12/504,350   | 07/16/2009  | Stephen K. Fraser    | 108.1001.08                | 9919                   |
| 22883 7590 12/22/2010<br>SWERNOFSKY LAW GROUP PC<br>P.O. Box 390711<br>MOUNTAIN VIEW, CA 94039 |             |                      | EXAMINER<br>FLYNN, KEVIN H |                        |
|  |             |                      | ART UNIT<br>3628           | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>12/22/2010    | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



**DETAILED ACTION**

**Status of Claims**

1. This action is in reply to the response filed 13 September 2010 and IDS filed 6 October 2010 and supplemental amendment filed 5 November 2010.
2. Claims 74, 76, 78, 80, 82, 84, 94, 97, 100, 102, 109-110 have been amended.
3. Claims 114-178 have been added.
4. Claims 75, 77, 79, 81, 83, 85, 95-96, 98, 111, 113 have been cancelled.
5. Claims 74, 76, 78, 80, 82, 84, 94, 97, 99, 100, 102, 109-110, 112, 114-178 are currently pending and have been examined.

***Response to Arguments***

6. Regarding the previous objection to the claim listing, Applicant has successfully included a full claim listing with correct claim markings. Examiner thanks Applicant for attention to this matter, and future amendments will not require the full text of cancelled claims.
7. Regarding the previous 35 USC § 101 rejection of the claims, Applicant has successfully included a particular apparatus within the methods claims, and a particular device within the system claims, and, accordingly, the rejections are rescinded.
8. Furthermore, if Applicant wishes to avoid additional 35 USC § 112, 1st paragraph rejections in subsequent amendments, Examiner respectfully requests pointing to support for each amendment, especially when the amendment uses language that is not immediately consistent with the specification's wording. See MPEP § 714.02 and § 2163.06 ("Applicant should specifically point out the support for any amendments made to the disclosure").
9. Applicant's arguments with respect to the prior art rejection of the claims have been considered but are moot in view of the new ground(s) of rejection. In particular, Zandi et al. (US 5,966,699)

discloses a database of loans which may be accessed by lenders, offers extended to borrowers, and borrowers may accept offers.

10. In addition, see updated rejection below.

***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

12. Claims 74, 76, 78, 80 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 74 recites "wherein said details include an offer to grant the loan request *without substantial further review by the lender*" (emphasis added). The specification, on p. 36, lines 4-7, discloses that there may be additional review by a lender, but does not give support for the negative limitation "without substantial further review by the lender", because 1) negative limitations such as those in the claim require express, implicit, or inherent support from the specification, none of which are present in the specification, and 2) as shown below, the term "substantial" is a term of degree that is unclear based on the specification.

13. Claims 131, 135 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 131 recites "including identification of a measure of match" (emphasis added). The specification, discloses that lender inquiries may be matched to particular loan requests, but does not disclose any measure of such a match.

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14. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
15. Claims 74, 76, 78, 80, 137, 139, 141, 143, 145, 147, 149, 151, 153 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
16. The term "substantial further financial review" in claim 74, 76, 78, 80, 137, 139, 141, 143, 145, 147, 149, 151, 153 is a relative term which renders the claim indefinite. The term "substantial further financial review" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The specification, in p. 36, lines 4-7, discloses that possible verification may take place, but provides no basis for determining at what point a review is "substantial".

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
18. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.



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19. Claims 74, 76, 78, 80, 82, 84, 94, 97, 99, 100, 102, 109-110, 112, 114-178 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaghi (US 5,966,699) in view of Walker et al. (US 5,794,207) in view of Hartman et al. (US 5,758,324) in view of Norris (US 5,870,721).

EXAMINER'S NOTE: Applicant has provided numerous claims, many of which recite the same features, albeit with slightly different wording. Accordingly, Examiner has provided immediately below particular passages within the references which disclose the various elements of the claims. Furthermore, Examiner has included rejections of particular claims of note, of which the rationale applied should be considered to each and every relevant claim that has not been explicitly so chosen.

Zaghi, generally shows the majority of the claim limitations, namely:

- A database of loan requests received from borrowers (Zandi col. 2, lines 21-22, col. 4, line 63 - col. 5, line 3, col. 6, lines 59-65);
- Providing particular bid offers to borrowers (Zandi col. 3, lines 1-11, col. 5, lines 4-15, col. 9, lines 19-32);
- Equating bids to offers (Zandi col. 6, lines 57-58, col. 9, lines 11-13);
- A bid may be accepted by a borrower (Zandi col. 3, lines 5-11, col. 5, lines 10-15, col. 7, lines 26-30, col. 10, lines 9-12. Examiner notes that bid acceptance may be a "modification");
- Prequalification requests (Zandi col. 4, lines 56-62, col. 6, lines 23-29, col. 7, lines 58-61);
- A measure of match of the loans (Zandi, col. 6, lines 57-58 showing analysis of the loan offers);
- Binding selection of a loan offer (Zandi, in col. 5, lines 10-15 discloses that acceptance of an offer is binding).

Zandi, in col. 2, lines 49-60, col. 9, lines 2-18 discloses a lender checking available borrower requests, and performing financial analyses on the loans, but does not specifically disclose comparing information. However, Walker, in col. 9, lines 8-16, col. 18, line 46 – col. 19, line 12, discloses that servicer offerors may search a database for particular services requested. It would have been obvious to combine the

method of checking available borrower requests with the technique of searching the particular requests in order "to make it easier for potential sellers to identify relevant [requests]" (Walker col. 9, lines 9-10).

Walker discloses users being able to search for relevant requests, does not specifically disclose that the request filtering is performed via particular criteria, or that the search filter is "stored", however, Hartman, in col. 8, lines 24-34 disclose search results for matching criteria in col. 9, lines 22-32, discloses that search criteria may be stored. It would have been obvious to combine the method of searching for services requested with the technique of storing offeror search requests in case "additional entries matching the search parameters can be located in the event the database has been modified and contains new entries that satisfy the search parameters" (Hartman col. 9, lines 24-27).

Zandi, col. 3, lines 1-11, col. 5, lines 4-15, col. 9, lines 19-32, discloses bidding for a particular loan, and in col. 6, lines 57-58, col. 9, lines 11-13 discloses that the bids may be considered offers, and in col. 3, lines 5-11, col. 5, lines 10-15, col. 7, lines 26-30, col. 10, lines 9-12 discloses that the bid may be accepted, but does not explicitly disclose without substantial further financial review by the lender. However, Norris, in col. 7, lines 17-23 discloses that an accepted offer may be granted with some, but not substantial, further financial review by the lender. It would have been obvious to one of ordinary skill in the art at the time of the invention to include verification conditions after an offer is extended in order "to prevent fraud" (Norris col. 7, line 18).

Norris, in col. 7, lines 17-23, discloses that the offer is subject to provision or verification of information needed to complete the loan request. Norris, in col. 6, lines 53-54 discloses that terms and conditions of an offer must be presented.

**Claim 74:**

Zandi, as shown, discloses the limitation:

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- at a server configured to receive information associated with at least one loan request, receiving information associated with said at least one all loan request (Zandi col. 2, lines 21-22, col. 4, line 63 - col. 5, line 3, col. 6, lines 59-65);

Regarding the limitation:

- comparing, in real time the loan request with one or more loan programs, information about said one or more loan programs being accessible to said server; and

Zandi, in col. 2, lines 49-60, col. 9, lines 2-18 discloses a lender checking available borrower requests, and performing financial analyses on the loans, but does not specifically disclose comparing information. However, Walker, in col. 9, lines 8-16, col. 18, line 46 – col. 19, line 12, discloses that servicer offerors may search a database for particular services requested. It would have been obvious to combine the method of checking available borrower requests with the technique of searching the particular requests in order "to make it easier for potential sellers to identify relevant [requests]" (Walker col. 9, lines 9-10).

Zandi discloses the limitation:

- providing details of at least one of said one or more loan programs in response to said steps of comparing (Zandi col. 3, lines 1-11, col. 5, lines 4-15, col. 9, lines 19-32);

Regarding the limitation:

- wherein said details include an offer to grant the loan request without substantial further financial review by the lender.

Zandi, col. 3, lines 1-11, col. 5, lines 4-15, col. 9, lines 19-32, discloses bidding for a particular loan, and in col. 6, lines 57-58, col. 9, lines 11-13 discloses that the bids may be considered offers, and in col. 3, lines 5-11, col. 5, lines 10-15, col. 7, lines 26-30, col. 10, lines 9-12 discloses that the bid may be accepted, but does not explicitly disclose without substantial further financial review by the lender. However, Norris, in col. 7, lines 17-23 discloses that an accepted offer may be granted with some, but not substantial, further financial review by the lender. It would have been obvious to one of ordinary skill in the art at the time of the invention to include verification conditions after an offer is extended in order "to prevent fraud" (Norris col. 7, line 18).

[In the alternative, Examiner believes that Zandi's silence to requiring further financial review may be considered "without substantial further review by the lender"].

**Claim 80:**

See above rejection of claim 74. Furthermore, Walker discloses users being able to search for relevant requests, does not specifically disclose that the request filtering is performed via particular criteria, or that the search filter is "stored", however, Hartman, in col. 8, lines 24-34 disclose search results for matching criteria in col. 9, lines 22-32, discloses that search criteria may be stored. It would have been obvious to combine the method of searching for services requested with the technique of storing offeror search requests in case "additional entries matching the search parameters can be located in the event the database has been modified and contains new entries that satisfy the search parameters" (Hartman col. 9, lines 24-27).

**Claim 82:**

See above rejection of claim 80. Furthermore, as noted in claim 80, Hartman in col. 9, lines 22-32 discloses maintaining a particular criteria filters.

**Claim 84:**

See above rejection of claim 82. In addition, note that Zandi discloses sending bid offers, which may be selected by borrowers, and are hence automatically approved.

**Claim 115:**

See above rejection of claim 74. In addition, Zandi discloses that each bid offer includes specific terms (see i.e. col. 6, lines 57-58 showing analysis of particular loan offers). Norris also discloses that an offer may include terms and conditions.

**Claim 117:**

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See above rejection of claim 74. In addition, Zandi discloses that borrowers may accept bids, which modifies the loan request (see e.g. col. 5, lines 10-15).

**Claim 118:**

See above rejection of claim 74. In addition, Zandi, in col. 6, lines 57-58 discloses a measure of match between the offered loan programs and the loan request.

**Claim 138:**

See above rejection of claim 82. In addition, Zandi, in col. 5, lines 10-15 discloses that acceptance of an offer is binding.

**Claim 156:**

See above rejection of claim 76. In addition, Norris, in col. 7, lines 17-23, discloses that the offer is subject to provision or verification of information needed to complete the loan request.

**Claims 74, 76, 78, 80, 82, 84, 94, 97, 99, 100, 102, 109-110, 112, 114-178**, any of which have not been explicitly shown as above, are rejected for the same reasons as above for the relevant passages cited.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kevin H. Flynn** whose telephone number is **571.270.3108**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **John W. Hayes** can be reached at **571.272.6708**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

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**Alexandria, VA 22313**

Application/Control Number: 12/504,350  
Art Unit: 3628

Page 11

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark**

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/Kevin H. Flynn/  
Examiner, Art Unit 3628  
15 December 2010

/JOHN W HAYES/  
Supervisory Patent Examiner, Art Unit 3628



# EXHIBIT G





# UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|--|-------------|----------------------|----------------------------|------------------------|
| 11/248,018   | 10/11/2005  | Stephen K. Fraser    | 108.1001.06                | 9122                   |
| 22883 7590 10/26/2010<br>SWERNOFSKY LAW GROUP PC<br>P.O. Box 390711<br>MOUNTAIN VIEW, CA 94039 |             |                      | EXAMINER<br>FLYNN, KEVIN H |                        |
|  |             |                      | ART UNIT<br>3628           | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>10/26/2010    | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>11/248,018 | <b>Applicant(s)</b><br>FRASER ET AL. |  |
|                              | <b>Examiner</b><br>KEVIN FLYNN       | <b>Art Unit</b><br>3628              |  |

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 70-73,87-90,103-108 and 114-139 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 70-73,87-90,103-108 and 114-139 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>30 November 2009</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### Status of Claims

1. This action is in reply to the response filed on 4 August 2010 and IDS filed 30 September 2010.
2. Claims 70-73, 87-90, 104, 106 have been amended.
3. Claims 118-139 haven been added.
4. Claims 70-73, 87-90, 103-108, 114-139 are currently pending and have been examined.

### Response to Amendment

The amendment to the claims filed on 4 August 2010 does not comply with the requirements of 37 CFR 1.121(c) because claim 72 recites "previously presented" but includes amended claim language. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1-5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the

presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

*(4) When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

*(5) Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

The amendment will be entered, but an explanation to this deficiency must be pointed out in the reply to this Office Action. The reply must state whether the applicant intended to amend claim 72 with similar language as to claim 70, as presented.

***Response to Arguments***

5. Regarding the previous 35 USC § 101 rejections, applicant has successfully amended the claims, and, accordingly, the rejection is rescinded.
6. Regarding the previous 35 USC § 112, 1<sup>st</sup> paragraph rejection of claims 71, 73, 88, 90, 104, 106, Applicant has amended the claims to include proper language that is supported by the specification, and, accordingly, the rejection is rescinded.
7. Regarding the previous 35 USC § 112, 1<sup>st</sup> paragraph, Applicant has successfully shown that the automation step is in regard with a lender's action, which is supported by the specification, and, accordingly, the rejection is rescinded. However, as shown below, there is an additional issue regarding the newly amended claims, see updated rejection below.
8. Regarding the prior art of record Applicant asserts that the combination of Tengel/Norris would not have been obvious and cannot be used to reject the claims. In particular, Applicant asserts that Tengel's loan search of multiple lenders cannot be combined with Norris' automatic loan offers (Applicant's arguments, p. 24). Examiner respectfully disagrees. It is the combination of the references, not their individual functionality that discloses the limitations of the claims. In

particular, Tengel does disclose searching for the best possible loans (col. 9, lines 32-59), and subsequently applying for them (col. 9, line 60 – col. 10, line 13). The Tengel reference thereafter requires manual lender approval for the particular loan request (col. 10, lines 14-19). However, Norris discloses that a particular loan offer may be automatically extended rather than requiring manual approval (col. 6, lines 46-52). Accordingly, it is the combination of Tengel and Norris that render the claim obvious, namely the structures and databases of Tengel, with the automatic acceptance of Norris. Furthermore, as shown below, Dykstra, in col. 4, lines 11-20 discloses communication with a remote database for approval, and col. 6, line 57 – col. 7, line 7 discloses that approval may be made remotely.

9. Applicant further argues against the references, in particular the MARS reference. Applicant asserts that the MARS reference would not work with the Tengel/Norris reference because it requires batch processing (Applicant's arguments, p. 25). Examiner respectfully disagrees. MARS, in p. 1-15, specifically discloses that there are two versions, one online and one batch. Furthermore, the MARS reference is mostly used to show what is strongly hinted at in the Tengel reference, namely that there are indeed multiple borrowers using the system at once.
10. Applicant's arguments regarding Dykstra are moot in view of the amendments. In particular, previously cited MARS discloses maintaining a mortgage's status in a database (p. 1-22).
11. In addition, see updated rejection below.

***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
13. Claims 128, 130, 132, 134, 136, 138 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the

relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims include the limitation "wherein said one or more actions include acceptance by a borrower *after comparison* with at least one additional loan offer", which is dependent upon the limitation "wherein the loan offer is condition upon one or more actions after said loan offer is extended". While there is mention of comparison of multiple offers within the specification (p. 34, line 20 - p. 35, line 2), there is no language that requires or suggests that the offer is conditional upon comparison to a separate offer.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. Claims 89-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tengel et al. (US 5,940,812) in view of in view of Norris (US 5,870,721).

**Claim 89:**

Tengel, as shown, discloses the following limitation(s):

- *receiving a loan application from a loan applicant over a computer network* (Tengel col. 8, lines 50-58; col. 9, lines 11-15); and
- *at a computing device configured as a server, processing the loan application in real-time to determine whether the loan application meets certain lending criteria of a lender* (Tengel col. 9, lines 23-31); and

Regarding the limitation:

- *providing a loan offer to the loan applicant electronically.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, but does not specifically disclose offering a loan for a particular request. However, Norris, in at least col 6, lines 46-64 discloses qualifying a borrower and offering a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**Claims 90:**

Tengel/Norris, as shown above, disclose the limitations of claims 70, 72, 89, 103, and 105. In addition, Norris discloses the following limitation:

- *wherein the loan offer is conditional upon one or more actions after said loan offer is extended* (Norris col. 7, lines 18-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include loan conditions as taught by Norris in the system of Tengal, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

17. Claims 87-88, 103-108, 114-117, 133, 135, 137, 139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tengal et al. (US 5,940,812) in view of GHR SERVICES, INC., "MARS

System Administration", 1994, GHR Services, Inc. (hereinafter "MARS") (Cite No. 11, IDS filed by Applicant 2/29/2008) in view of Norris (US 5,870,721).

**Claim 87:**

Tengel, as shown, discloses the following limitation(s):

- *receiving a loan application from a loan applicant over a computer network* (Tengel col. 8, lines 50-58; col. 9, lines 11-15); and
- *at a computing device configured as a server, processing the loan application to determine whether the loan application meets certain lending criteria of a lender* (Tengel col. 9, lines 23-31); and

Regarding the limitation:

- *at a database including memory or mass storage and configured to maintain loan information, maintaining the loan application and its corresponding status so that the loan application information and status information is available in real-time to the loan applicant over the computer network;*

Tengel, in at least col. 8, lines 50-58 and col. 9, lines 11-15 discloses maintaining a loan application, but does not specifically disclose its status. However, MARS, in p. 1-22, discloses that loan status of particular loans are available to over a computer network. It would have been obvious to combine the method of maintaining loan applications with the technique of maintaining loan application status "to allow a User Member to receive Loan Status" (MARS p. 1-22).

Regarding the limitation:

- *providing a loan offer to the loan applicant over the computer network so that the loan applicant can accept or reject the loan offer.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, but does not specifically disclose offering a loan for a particular request. However, Norris, in at least col 6, lines 46-64 discloses qualifying a borrower and offering a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan



offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**EXAMINER'S NOTE:** The limitations "so that the loan application information and status information is available in real-time to the loan applicant over the computer network" and "so that the loan applicant can accept or reject the loan offer" are merely a statements of intended use and is only afforded patentable weight to the extent that it actual limitations on the invention, which are met by the teachings of Tengel, MARS and Norris.

**Claim 103:**

Tengel, as shown, discloses the following limitation(s):

- *said server being configured to compare the loan inquiry information in real-time with information provided by one or more lenders to identify certain lenders that can satisfy the one or more loan inquiries* (Tengel col. 9, lines 23-31); and

Regarding the limitation:

- *a server including a computing device and configured to access a loan inquiry form, and to respond to requests from client devices including information about one or more of a plurality of loan inquiries* (Tengel col. 8, lines 37-58; col. 9, lines 11-15); and

Tengel, in col. 8, lines 50-58 and col. 9, lines 11-15 discloses a database that includes a loan profile for a loan request, but does not specifically disclose that the database includes a plurality of loan profiles. In addition, Tengel, in Fig. 1, col. 4, lines 53-61 discloses a plurality of borrower terminals, and in col. 8, lines 59-65 discloses retrieving a particular borrower profile based on specifying information (eg social security), both of which suggest a plurality of loan profiles. However, MARS, on p. 1-15, discloses that a plurality of loan profiles are stored in a database, which may be accessed online or downloaded in batches. It would have been obvious to one of ordinary skill in the art at the time of the invention to include multiple loan profiles as taught by MARS in the system of Tengel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have

performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding the limitation:

- *said server being configured to provide at least one loan offer in response to one or more lenders that can satisfy the one or more loan inquiries.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, but does not specifically disclose offering a loan for a particular request. However, Norris, in at least col 6, lines 46-64 discloses qualifying a borrower and offering a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**Claim 105:**

Tengel, as shown, discloses the following limitation(s):

- *said server being configured to compare the credit request information in real-time with certain criteria specified by one or more lenders to identify certain lenders that can satisfy the one or more credit requests* (Tengel col. 9, lines 23-31); and

Regarding the limitation:

- *a server including a computing device and configured to access a form, and to respond to requests from client devices including information about one or more of a plurality of credit requests* (Tengel col. 8, lines 37-58; col. 9, lines 11-15);

Tengel, in col. 8, lines 50-58 and col. 9, lines 11-15 discloses a database that includes a loan profile for a loan request, but does not specifically disclose that the database includes a plurality of loan profiles. In addition, Tengal, in Fig. 1, col. 4, lines 53-61 discloses a plurality of borrower terminals, and in col. 8, lines 59-65 discloses retrieving a particular borrower profile based on specifying information (eg social security), both of which suggest a plurality of loan profiles. However, MARS, on p. 1-15, discloses that a plurality of loan profiles are stored in a database, which may be accessed online or downloaded in

batches. It would have been obvious to one of ordinary skill in the art at the time of the invention to include multiple loan profiles as taught by MARS in the system of Tengel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding the limitation:

- *said server being configured to provide at least one loan offer in response to the one or more credit requests.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, but does not specifically disclose offering a loan for a particular request. However, Norris, in at least col 6, lines 46-64 discloses qualifying a borrower and offering a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**Claim 107:**

Tengel, as shown, discloses the following limitation(s):

- *said server being configured to compare credit request details and identifying at least one lender that can satisfy the one or more credit requests* (Tengel col. 9, lines 23-31); and

Regarding the limitation:

- *a server including a computing device and configured to access a form, and to respond to requests from client devices including details relating to one or more of a plurality of credit requests* (Tengel col. 8, lines 37-58; col. 9, lines 11-15);

Tengel, in col. 8, lines 50-58 and col. 9, lines 11-15 discloses a database that includes a loan profile for a loan request, but does not specifically disclose that the database includes a plurality of loan profiles. In addition, Tengel, in Fig. 1, col. 4, lines 53-61 discloses a plurality of borrower terminals, and in col. 8, lines 59-65 discloses retrieving a particular borrower profile based on specifying information (eg social

security), both of which suggest a plurality of loan profiles. However, MARS, on p. 1-15, discloses that a plurality of loan profiles are stored in a database, which may be accessed online or downloaded in batches. It would have been obvious to one of ordinary skill in the art at the time of the invention to include multiple loan profiles as taught by MARS in the system of Tengel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding the limitation:

- *said server being configured to provide details of at least one lender's offer in response to the one or more credit requests.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, but does not specifically disclose offering a loan for a particular request. However, Norris, in at least col 6, lines 46-64 discloses qualifying a borrower and offering a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**Claims 88, 104, 106:**

Tengel/MARS/Norris, as shown above, disclose the limitations of claims 87, 103, and 105. In addition, Norris discloses the following limitation:

- *wherein the loan offer is conditional upon one or more actions after said loan offer is extended* (Norris col. 7, lines 19-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include loan conditions as taught by Norris in the system of Tengel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claims 108:**

Tengel/MARS/Norris, as shown above, disclose the limitations of claims 107. In addition, Norris discloses the following limitation:

- *wherein the details include specific terms of a lender's offer to grant the credit request (Norris col. 6, lines 52-54).*

It would have been obvious to one of ordinary skill in the art at the time of the invention to include loan conditions as taught by Norris in the system of Tengel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claim 114-115:**

Tengel/MARS/Norris, as shown above, disclose the limitations of claims 72 and 74. In addition, Norris discloses the remaining limitation:

- *wherein said steps of providing at least one loan offer are in response to a decision (Norris col. 6, lines 46-47).*

It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers in response to a decision because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**Claim 116:**

Regarding the limitation:

- *at a server, said server including a computing device, configured to access a database and to respond to requests from client devices, providing access to a database of a plurality of loan profiles relating to corresponding loan requests; and*

Tengel, in col. 8, lines 50-58 and col. 9, lines 11-15 discloses a database that includes a loan profile for a loan request, but does not specifically disclose that the database includes a plurality of loan profiles. In addition, Tengal, in Fig. 1, col. 4, lines 53-61 discloses a plurality of borrower terminals, and in col. 8, lines 59-65 discloses retrieving a particular borrower profile based on specifying information (eg social security), both of which suggest a plurality of loan profiles. However, MARS, on p. 1-15, discloses that a plurality of loan profiles are stored in a database, which may be accessed online or downloaded in batches. It would have been obvious to one of ordinary skill in the art at the time of the invention to include multiple loan profiles as taught by MARS in the system of Tengal, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding the limitation:

- *at a server, responding in real-time to at least one of the loan requests by providing at least one loan offer for a particular loan request.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, but does not specifically disclose offering a loan for a particular request. However, Norris, in at least col 6, lines 46-64 discloses qualifying a borrower and offering a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**Claim 117:**

Regarding the limitation:

- *a server including a computing device and configured to access a database and to respond to requests from client devices, said server providing access to a database of a plurality of loan profiles relating to corresponding loan requests; and*

Tengel, in col. 8, lines 50-58 and col. 9, lines 11-15 discloses a database that includes a loan profile for a loan request, but does not specifically disclose that the database includes a plurality of loan profiles. In addition, Tengal, in Fig. 1, col. 4, lines 53-61 discloses a plurality of borrower terminals, and in col. 8, lines 59-65 discloses retrieving a particular borrower profile based on specifying information (eg social security), both of which suggest a plurality of loan profiles. However, MARS, on p. 1-15, discloses that a plurality of loan profiles are stored in a database, which may be accessed online or downloaded in batches. It would have been obvious to one of ordinary skill in the art at the time of the invention to include multiple loan profiles as taught by MARS in the system of Tengal, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding the limitation:

- *wherein said server includes a software agent resident on said computing device configured to respond in real-time to at least one of the loan requests by providing at least one loan offer for a particular loan request.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, but does not specifically disclose offering a loan for a particular request. However, Norris, in at least col 6, lines 46-64 discloses qualifying a borrower and offering a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

**Claims 133, 135, 137, 139:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 88, 90, 104, 106. In addition, Norris discloses the limitation:

- wherein said one or more actions include one or more further actions performed by a borrower after acceptance of said loan offer (Norris col. 6, line 66 – col. 7, line 4 and col. 7, line 11-13,

disclosing requiring a borrower to scan a particular agreement into the system following acceptance).

18. Claims 70-73 118-127, 129, 131 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tengel et al. (US 5,940,812) in view of GHR SERVICES, INC., "MARS System Administration", 1994, GHR Services, Inc. (hereinafter "MARS") (Cite No. 11, IDS filed by Applicant 2/29/2008) in view of Norris (US 5,870,721) in view of Dykstra (5,611,052).

**Claim 70:**

Regarding the limitation:

- *at a server, said server including a computing device, configured to access a database and to respond to requests from client devices, providing access to a database of a plurality of loan profiles relating to corresponding loan requests* (Tengel col. 8, lines 50-58; col. 9, lines 11-15);  
and

Tengel, in col. 8, lines 50-58 and col. 9, lines 11-15 discloses a database that includes a loan profile for a loan request, but does not specifically disclose that the database includes a plurality of loan profiles. In addition, Tengel, in Fig. 1, col. 4, lines 53-61 discloses a plurality of borrower terminals, and in col. 8, lines 59-65 discloses retrieving a particular borrower profile based on specifying information (eg social security), both of which suggest a plurality of loan profiles. However, MARS, on p. 1-15, discloses that a plurality of loan profiles are stored in a database, which may be accessed online or downloaded in batches. It would have been obvious to one of ordinary skill in the art at the time of the invention to include multiple loan profiles as taught by MARS in the system of Tengel, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding the limitation:



- *at a server, responding in real-time to at least one of the loan requests by automatically generating a message in response to said database, said message providing at least one loan offer for a particular loan request.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, and in col. 10, lines 14-19 discloses a lender may review a loan request to decide whether to provide the loan. but does not specifically disclose offering a loan for a particular request. However, MARS, in p. 1-15 discloses that lenders may receive loan requests, and in MARS p. 1-21 discloses that loans may be approved following their receipt (see also Fig. 1.1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of requesting a loan with the technique of approving a loan so that "the amount of time any potential borrower must wait for loan approval is also significantly reduced" (Tengel col. 10, lines 27-28).

MARS, in p. 1-7, point 7, discloses that loan status may be downloaded to the point-of-sale, but does not specifically that the approved loan status is an offer. However, Norris, in at least col. 6, lines 46-64 discloses a qualified a borrower may be offered a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

Furthermore, Norris does not specifically disclose that a loan qualification decision may be made remotely. However, Dykstra, in col. 4, lines 11-20 discloses communication with a remote database for approval, and col. 6, line 57 – col. 7, line 7 discloses that approval may be made remotely. It would have been obvious to one of ordinary skill in the art at the time of the invention to include remote approval as taught by Dykstra in the system of Norris, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claim 72:**

Regarding the limitation:

- *at a server, said server including a computing device, configured to access a database and to respond to requests from client devices, providing access a database of a plurality of loan profiles relating to corresponding loan requests (Tengel col. 8, lines 50-58; col. 9, lines 11-15); and*

Tengel, in col. 8, lines 50-58 and col. 9, lines 11-15 discloses a database that includes a loan profile for a loan request, but does not specifically disclose that the database includes a plurality of loan profiles. In addition, Tengal, in Fig. 1, col. 4, lines 53-61 discloses a plurality of borrower terminals, and in col. 8, lines 59-65 discloses retrieving a particular borrower profile based on specifying information (eg social security), both of which suggest a plurality of loan profiles. However, MARS, on p. 1-15, discloses that a plurality of loan profiles are stored in a database, which may be accessed online or downloaded in batches. It would have been obvious to one of ordinary skill in the art at the time of the invention to include multiple loan profiles as taught by MARS in the system of Tengal, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding the limitation:

- *wherein said server includes a software agent resident on said computing device configured to respond in real-time to at least one of the loan requests by automatically generating a message in response to said database, said message providing at least one loan offer for a particular loan request.*

Tengel, in at least col. 9, lines 23-26, discloses criteria for which a borrower is qualified for a loan, and in col. 10, lines 14-19 discloses a lender may review a loan request to decide whether to provide the loan. but does not specifically disclose offering a loan for a particular request. However, MARS, in p. 1-15 discloses that lenders may receive loan requests, and in MARS p. 1-21 discloses that loans may be approved following their receipt (see also Fig. 1.1). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of requesting a loan with the technique of

approving a loan so that "the amount of time any potential borrower must wait for loan approval is also significantly reduced" (Tengel col. 10, lines 27-28).

MARS, in p. 1-7, point 7, discloses that loan status may be downloaded to the point-of-sale, but does not specifically that the approved loan status is an offer. However, Norris, in at least col. 6, lines 46-64 discloses a qualified a borrower may be offered a loan automatically. It would have been obvious to combine the method having a profile and loan request with the technique of providing automatic loan offers because "Avoiding human intervention not only saves processing time and reduces errors, but also eliminates bias in the decision to approve or deny the loan" (Norris col. 3, lines 17-19).

Furthermore, Norris does not specifically disclose that a loan qualification decision may be made remotely. However, Dykstra, in col. 4, lines 11-20 discloses communication with a remote database for approval, and col. 6, line 57 – col. 7, line 7 discloses that approval may be made remotely. It would have been obvious to one of ordinary skill in the art at the time of the invention to include remote approval as taught by Dykstra in the system of Norris, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claims 71, 73:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 70, 72. In addition, Norris discloses the following limitation:

- *wherein the loan offer is conditional upon one or more actions after said loan offer is extended*  
(Norris col. 7, lines 19-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include loan conditions as taught by Norris in the system of Tengal, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claims 118, 123:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 70, 72. In addition, MARS discloses the limitation:

- said message being directed at a client device associated with a corresponding loan request (MARS p. 1-22 showing the status updates available to particular users associated with the loan).

**Claims 119, 124:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 70, 72. In addition, MARS discloses the limitation:

- said message being triggered by an action associated with a corresponding loan request (MARS p. 1-22 showing a status update, p. 1-21 showing that status updates can include loan approval).

**Claims 120, 125:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 70, 72. In addition, MARS discloses the limitation:

- said message being triggered by an action taken by a lender (MARS p. 1-22 showing a status update, p. 1-21 showing that status updates can include loan approval by a lender; see also Tengal col. 10, lines 14-19 showing lender receipt of a loan request and underwriting approval).

**Claims 121, 126:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 70, 72. In addition, MARS discloses the limitation:

- said message being triggered by an action taken in response to a corresponding loan request (MARS p. 1-22 showing a status update, p. 1-21 showing that status updates can include loan approval; see also Tengal col. 10, lines 14-19 showing lender receipt of a loan request and underwriting approval).

**Claims 122, 127:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 70, 72. In addition, MARS discloses the limitation:

- said message being triggered by a change in said database (MARS p. 1-22 showing a status update, p. 1-21 showing that status updates can include loan approval; see also Tengal col. 10, lines 14-19 showing lender receipt of a loan request and underwriting approval).

**Claims 129, 131:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 71, 73. In addition, Norris discloses the limitation:

- wherein said one or more actions include one or more further actions performed by a borrower after acceptance of said loan offer (Norris col. 6, line 66 – col. 7, line 4 and col. 7, line 11-13, disclosing requiring a borrower to scan a particular agreement into the system following acceptance).

19. Claims 132, 134, 136, 138 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tengal et al. (US 5,940,812) in view of GHR SERVICES, INC., "MARS System Administration", 1994, GHR Services, Inc. (hereinafter "MARS") (Cite No. 11, IDS filed by Applicant 2/29/2008) in view of Norris (US 5,870,721) in view of Ord, "Canada's Electronic Mortgage Market", Mortgage Originator, July 1996 (Applicant's IDS submitted 5 June 2009, NPL cite 18) (hereinafter "Ord").

**Claims 132, 134, 136, 138:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 88, 90, 104, 106.

Regarding the limitation:

- wherein said one or more actions include acceptance by a borrower after comparison with at least one additional loan offer.

Tengel, in col. 9, lines 32-59 discloses comparison of various loan products, but does not specifically disclose comparison with an additional loan offer. However, Ord, in p. 16, col. 2, ¶ 3 and p. 17, col. 1 ¶ 6 – col. 2, ¶ 1, discloses comparing various loan offers before acceptance of a loan offer. It would have been obvious to combine the method of comparing loan products with the technique of comparing particular loan offers because "The customer wins by getting the best offer" (Ord p. 18, col. 3, ¶ 5).

20. Claims 128, 130 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tengal et al. (US 5,940,812) in view of GHR SERVICES, INC., "MARS System Administration", 1994, GHR Services, Inc. (hereinafter "MARS") (Cite No. 11, IDS filed by Applicant 2/29/2008) in view of Norris (US 5,870,721) in view of Dykstra (5,611,052) in view of Ord, "Canada's Electronic Mortgage Market", Mortgage Originator, July 1996 (Applicant's IDS submitted 5 June 2009, NPL cite 18) (hereinafter "Ord").

**Claims 128, 130:**

Tengel/MARS/Norris/Dykstra, as shown above, disclose the limitations of claims 71, 73. Regarding the limitation:

- wherein said one or more actions include acceptance by a borrower after comparison with at least one additional loan offer.

Tengel, in col. 9, lines 32-59 discloses comparison of various loan products, but does not specifically disclose comparison with an additional loan offer. However, Ord, in p. 16, col. 2, ¶ 3 and p. 17, col. 1 ¶ 6 – col. 2, ¶ 1, discloses comparing various loan offers before acceptance of a loan offer. It would have been obvious to combine the method of comparing loan products with the technique of comparing particular loan offers because "The customer wins by getting the best offer" (Ord p. 18, col. 3, ¶ 5).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Kevin H. Flynn** whose telephone number is **571.270.3108**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **John W. Hayes** can be reached at **571.272.6708**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

**Commissioner of Patents**

**P.O. Box 1450**

**Alexandria, VA 22313**

or faxed to **571-273-8300**.

Application/Control Number: 11/248,018  
Art Unit: 3628

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Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window:**

Randolph Building  
401 Dulany Street  
Alexandria, VA 22314.

/Kevin H. Flynn/  
Examiner, Art Unit 3628  
6 October 2010

/JOHN W HAYES/  
Supervisory Patent Examiner, Art Unit 3628



|   |  |   |
|---|--|---|
| <b>Index of Claims</b><br> | <b>Application/Control No.</b><br>11248018 | <b>Applicant(s)/Patent Under Reexamination</b><br>FRASER ET AL. |
|   | <b>Examiner</b><br>KEVIN FLYNN             | <b>Art Unit</b><br>4143   |


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| - | <b>Cancelled</b>  |
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| N | <b>Non-Elected</b>  |
| I | <b>Interference</b> |

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| A | <b>Appeal</b>   |
| O | <b>Objected</b> |

| <input type="checkbox"/> Claims renumbered in the same order as presented by applicant |          | <input type="checkbox"/> CPA |            | <input type="checkbox"/> T.D. |            | <input type="checkbox"/> R.1.47 |  |  |  |  |
|--|----------|------------------------------|------------|-------------------------------|------------|---------------------------------|--|--|--|--|
| CLAIM  |          | DATE                         |            |                               |            |                                 |  |  |  |  |
| Final  | Original | 01/24/2008                   | 10/20/2008 | 06/02/2009                    | 01/31/2010 | 10/07/2010                      |  |  |  |  |
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|  | 4        | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 5        | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 6        | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 7        | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 8        | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 9        | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 10       | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 11       | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 12       | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 13       | -                            | -          |                               |            |                                 |  |  |  |  |
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|  | 16       | -                            | -          |                               |            |                                 |  |  |  |  |
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|  | 20       | -                            | -          |                               |            |                                 |  |  |  |  |
|  | 21       | -                            | -          |                               |            |                                 |  |  |  |  |
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|  | 36       | -                            | -          |                               |            |                                 |  |  |  |  |

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| <b><i>Index of Claims</i></b><br> | <b>Application/Control No.</b><br>11248018 | <b>Applicant(s)/Patent Under Reexamination</b><br>FRASER ET AL. |
|  | <b>Examiner</b><br>KEVIN FLYNN             | <b>Art Unit</b><br>4143   |

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| ✓ | <b>Rejected</b> |
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| I | <b>Interference</b> |

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| A | <b>Appeal</b>   |
| O | <b>Objected</b> |

☐ Claims renumbered in the same order as presented by applicant
 ☐ CPA
 ☐ T.D.
 ☐ R.1.47

| CLAIM |          | DATE       |            |            |            |            |  |  |  |  |  |
|-------|----------|------------|------------|------------|------------|------------|--|--|--|--|--|
| Final | Original | 01/24/2008 | 10/20/2008 | 06/02/2009 | 01/31/2010 | 10/07/2010 |  |  |  |  |  |
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|       | 38       | -          | -          |            |            |            |  |  |  |  |  |
|       | 39       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 40       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 41       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 42       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 43       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 44       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 45       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 46       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 47       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 48       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 49       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 50       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 51       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 52       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 53       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 54       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 55       | ✓          | -          |            |            |            |  |  |  |  |  |
|       | 56       |            | +          | N          |            |            |  |  |  |  |  |
|       | 57       |            | +          | N          |            |            |  |  |  |  |  |
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|       | 62       |            | +          | N          |            |            |  |  |  |  |  |
|       | 63       |            | +          | N          |            |            |  |  |  |  |  |
|       | 64       |            | +          | N          |            |            |  |  |  |  |  |
|       | 65       |            | +          | N          |            |            |  |  |  |  |  |
|       | 66       |            | +          | N          |            |            |  |  |  |  |  |
|       | 67       |            | +          | N          |            |            |  |  |  |  |  |
|       | 68       |            | +          | N          |            |            |  |  |  |  |  |
|       | 69       |            | +          | N          |            |            |  |  |  |  |  |
|       | 70       |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 71       |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 72       |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |

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| <b>Index of Claims</b><br> | <b>Application/Control No.</b><br>11248018 | <b>Applicant(s)/Patent Under Reexamination</b><br>FRASER ET AL. |
|   | <b>Examiner</b><br>KEVIN FLYNN             | <b>Art Unit</b><br>4143   |

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| ✓ | <b>Rejected</b> |
| = | <b>Allowed</b>  |

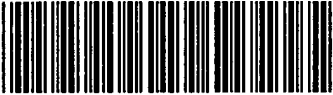
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| A | <b>Appeal</b>   |
| O | <b>Objected</b> |

☐ Claims renumbered in the same order as presented by applicant
 ☐ CPA
 ☐ T.D.
 ☐ R.1.47

| CLAIM |          | DATE       |            |            |            |            |  |  |  |  |  |
|-------|----------|------------|------------|------------|------------|------------|--|--|--|--|--|
| Final | Original | 01/24/2008 | 10/20/2008 | 06/02/2009 | 01/31/2010 | 10/07/2010 |  |  |  |  |  |
|       | 73       |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 74       |            | +          | N          |            |            |  |  |  |  |  |
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|       | 84       |            | +          | N          |            |            |  |  |  |  |  |
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|       | 86       |            | +          | N          |            |            |  |  |  |  |  |
|       | 87       |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
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|       | 102      |            | +          | N          |            |            |  |  |  |  |  |
|       | 103      |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 104      |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 105      |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 106      |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 107      |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |
|       | 108      |            | +          | ✓          | ✓          | ✓          |  |  |  |  |  |

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| <b>Index of Claims</b><br> | <b>Application/Control No.</b><br>11248018 | <b>Applicant(s)/Patent Under Reexamination</b><br>FRASER ET AL. |
|   | <b>Examiner</b><br>KEVIN FLYNN             | <b>Art Unit</b><br>4143   |

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| A | <b>Appeal</b>   |
| O | <b>Objected</b> |

| <input type="checkbox"/> Claims renumbered in the same order as presented by applicant |          | <input type="checkbox"/> CPA |            | <input type="checkbox"/> T.D. |            | <input type="checkbox"/> R.1.47 |  |  |  |
|--|----------|------------------------------|------------|-------------------------------|------------|---------------------------------|--|--|--|
| CLAIM  |          | DATE                         |            |                               |            |                                 |  |  |  |
| Final  | Original | 01/24/2008                   | 10/20/2008 | 06/02/2009                    | 01/31/2010 | 10/07/2010                      |  |  |  |
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|  | 112      |                              | +          | N                             |            |                                 |  |  |  |
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|  | 114      |                              |            |                               | ✓          | ✓                               |  |  |  |
|  | 115      |                              |            |                               | ✓          | ✓                               |  |  |  |
|  | 116      |                              |            |                               | ✓          | ✓                               |  |  |  |
|  | 117      |                              |            |                               | ✓          | ✓                               |  |  |  |
|  | 118      |                              |            |                               |            | ✓                               |  |  |  |
|  | 119      |                              |            |                               |            | ✓                               |  |  |  |
|  | 120      |                              |            |                               |            | ✓                               |  |  |  |
|  | 121      |                              |            |                               |            | ✓                               |  |  |  |
|  | 122      |                              |            |                               |            | ✓                               |  |  |  |
|  | 123      |                              |            |                               |            | ✓                               |  |  |  |
|  | 124      |                              |            |                               |            | ✓                               |  |  |  |
|  | 125      |                              |            |                               |            | ✓                               |  |  |  |
|  | 126      |                              |            |                               |            | ✓                               |  |  |  |
|  | 127      |                              |            |                               |            | ✓                               |  |  |  |
|  | 128      |                              |            |                               |            | ✓                               |  |  |  |
|  | 129      |                              |            |                               |            | ✓                               |  |  |  |
|  | 130      |                              |            |                               |            | ✓                               |  |  |  |
|  | 131      |                              |            |                               |            | ✓                               |  |  |  |
|  | 132      |                              |            |                               |            | ✓                               |  |  |  |
|  | 133      |                              |            |                               |            | ✓                               |  |  |  |
|  | 134      |                              |            |                               |            | ✓                               |  |  |  |
|  | 135      |                              |            |                               |            | ✓                               |  |  |  |
|  | 136      |                              |            |                               |            | ✓                               |  |  |  |
|  | 137      |                              |            |                               |            | ✓                               |  |  |  |
|  | 138      |                              |            |                               |            | ✓                               |  |  |  |
|  | 139      |                              |            |                               |            | ✓                               |  |  |  |

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| <b>INFORMATION DISCLOSURE<br/>STATEMENT BY APPLICANT</b><br>( Not for submission under 37 CFR 1.99) | Application Number     | 11248018    |
|   | Filing Date            | 2005-10-11  |
|   | First Named Inventor   | Fraser      |
|   | Art Unit               | 3628        |
|   | Examiner Name          | Flynn, K.   |
|   | Attorney Docket Number | 108.1001.06 |

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| Filing Date            | 2005-10-11  |
| First Named Inventor   | Fraser      |
| Art Unit               | 3628        |
| Examiner Name          | Flynn, K.   |
| Attorney Docket Number | 108.1001.06 |

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|   | First Named Inventor   | Fraser      |            |
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